

Excerpts from Delta Protection Commission Meetings
Regarding Future of the Commission

Excerpt from May 2003 minutes...

13. Proposed Budget and Work Plan for FY 03-04

Ms. Aramburu gave the Commission a background on the DPC budget funding for Fiscal Years 2003-2004 where approximately \$300,000 has been designated in the Governor's budget for FY 03-04 from two special funds.

Ms. Aramburu reported that she attended the Assembly Subcommittee #3 Budget Hearing where the DPC budget was listed on the consent calendar for approval. However, Assemblymember Lois Wolk removed the DPC agenda item from the calendar and asked the Legislative Analyst's Office (LAO) to produce a report to determine if there was overlap between the duties of the Delta Protection Commission and other State Agencies—especially the Bay Delta Authority. In two separate meetings, Assemblymember Wolk met with Ms. Aramburu, Chairman McCarty, Commissioners Cabaldon, Coglianese and McGowan to discuss the findings of the LAO report. Specifically the LAO found that (1) the Delta Protection Commission has completed their assigned tasks; (2) with the creation of the new Bay Delta Authority, there is overlap; and, (3) the Delta Protection Commission should be eliminated as a State-funded Agency.

It was proposed at the meeting(s) that the Environmental License Plate Funding of the DPC's budget (\$140,000) be eliminated, the Commission would sunset within one year, and another entity (if appropriate) should be created in its place. Ms. Aramburu mentioned that at the Budget meeting, American Farmland Trust, CALFED, California Farm Bureau Federation, and former Senator Patrick Johnston spoke in support of retaining the Delta Protection Commission. She also noted that the Senate Budget Subcommittee had approved the DPC's proposed budget on March 20, 2003.

Chairman McCarty praised those who spoke in support of the DPC. He said he supported former Senator Johnston's point of view that this action is an affront to the farm community in the Delta and landowners in the Delta should take this personally and be very concerned on the attempt to replace the DPC. He urged the Commissioners to look at DPC configuration and whether the DPC is fulfilling their stated mission. He said he did not see the DPC's tasks as duplicative and the DPC is the only Agency whose charge is to maintain, preserve and enhance the Delta's resources. He believed it critical for the Commission to sustain itself in order to maintain a balance for viable agriculture in the Delta and recreation.

Commissioner Coglianese asked the Commission to remember that it is "ground zero" for many activities central to the State, fragmented jurisdictionally, lightly populated and serves a place for the Delta community to bring its issues and without a Commission, CALFED would have a difficult time. She felt it was a matter of pragmatism for those interested in "water issues" to continue the DPC.

Excerpt from May 2003 minutes (con't)

Commissioner Cabaldon felt that once the Commission wins this battle, it should seriously look itself in the mirror to make sure its credible with the balance of issues affecting the Delta if the members are committed to defending the Commission. He suggested the Commission protect its allocation with the Senate to make sure the Senate does not conform to the Assembly.

Commissioner McGowan said he felt troubled and challenged by the accusations against the DPC. He has been with the Commission since its beginning and the Commission does a tremendous amount of work with its limited authority.

Commissioner Beltran announced he would place this item on his Council agenda to begin a letter writing campaign to send to cities with in the San Joaquin Council of Government (COG). He asked that the Commission members look at the possibility that the DPC might come to an end within a year and they should look at the conservancies that might be the replacement for the DPC and creating a partnership with them while they are in their initial state.

Dan Siegel advised the members to be cautious of what the Commission can do in terms of advocacy as opposed to individuals. He said the Commission can go to the legislature and point out its position; however, it cannot campaign for public support, as that is deemed an inappropriate role.

Commissioner Notolli announced that the Commission has accomplished a great deal over the past decade and believed his board would support the continued existence of the Commission. He said that he too will place this matter on the Sacramento County Board of Supervisors' agenda and have the Sacramento County legislative advocate work on the matter to see the Commission and its mission is continued.

Commissioner Coglianese requested that Ms. Aramburu keep the Commission informed by e-mail as to process and milestones so that the members do not inadvertently miss any key dates.

Commissioner Cabaldon said as the issue proceeds, Legislators from other parts of the State will be influenced by the DPC's state agency partners as much the local governments. He said he recognized their limitations to weigh in on the matter. He felt that the DPC provides a forum that is essential and would have to be reinvented in other agencies should the DPC not exist. He said other members of the Legislature outside of the Delta need to hear that message.

Ms. Aramburu suggested the Commissioners postpone action on the workplan and budget until the Legislature adopts a budget.

Excerpt from July 2003 minutes...

10. Update on the State Budget, Funding for the Delta Protection Commission and Next Steps Regarding the Commission's Future

Ms. Aramburu said the Assembly Budget Subcommittee made a recommendation for a one-year sunset of the Commission, and half of the Commission budget be allocated for the FY03-04; however, the Budget Conference Committee recommended no sunset date, full funding for the Commission to be received in two parts—half budget now and the remainder after the Secretary of Resources submits a report to the Budget Conference Committee. Ms. Aramburu thanked former Senator Patrick Johnston for his work on behalf of and support of the DPC. She also thanked Senator Mike Machado, and Commissioners Beltran, Cabaldon and Nottoli for their efforts and letter writing on behalf of the Commission.

Ms. Aramburu said that she and Chairman McCarty met with Resources Secretary Mary Nichols earlier in July and offered their assistance in preparing the report on the DPC. She announced that the Resources Agency would be receiving a new staff person who will work with the DPC to help meet the requirements of the Legislature. She also said she is trying to set up forum in October 2003 to get input from other agencies and the public. Commissioner Cabaldon reported that many of the members of BDPAC also spoke out about the importance of the DPC.

Chairman McCarty noted that the Commission lacked certain elements of representation relative to the Resources Agency, and that the Commission should consider enhancing elements of representation that are not currently represented on the Commission.

Commissioner Cabaldon suggested that the Commission form a special committee to answer all of the questions for the Secretary of Resources and the Legislature, and amend the work plan to devote a significant amount of its internal resources for the next six months to the task of writing the report. Ms. Aramburu said that the Commission has been through this type of exercise in the past. She further advised the Commission form a small two-person Ad hoc committee, to allow flexibility in meeting with staff.

Commissioner Cabaldon suggested the Commission set aside the majority of its time during next meeting to ask the ad hoc committee to lay out different scenarios of what the Commission could become in the future. He stated a scenario-based planning approach would allow the Commission to better define its role.

Chairman McCarty commented that the Commission is in a different place than it was ten years ago, and will be in a different place ten years from now. He questioned whether the Commission was properly set to meet new challenges. He further suggested a smaller committee would be more functional and could get more work done. He said to meet the current challenge, he favored public outreach; taking the Commission meetings on the road to different venues for the next few months; and increasing the frequency of Commission meetings.

Excerpt from July 2003 minutes (con't)

Commissioner Brean suggested that the members look at the basic on-going mission of the Commission. He said they should look at how the Commission can best protect agriculture, recreation, and enhance habitat in the Delta. He said the Commission should give legitimate, straightforward answers to the questions its been asked to answer. He suggested the Commission combine and expand upon its Annual Report to the Governor and Legislature, with the report generated from the Secretary of the Resources Agency.

Commissioner Coglianese said she felt that a routine combined report would be perceived as disrespectful and the Commission should "heighten" its efforts at this point.

Commissioner Shaffer said that the Commission had to make sure it received the support of the various State agencies, and noted a January timeline for completion of the report.

Chairman McCarty opened the public hearing; there were no public comments. The public hearing was closed.

It was moved by Commissioner Nottoli and seconded by Commissioner Calone that the Commission appoint a two-person committee. Commissioner Shaffer amended the motion to include making the issue the primary agenda item for the September meeting and conducting public outreach and notice of the meeting to encourage public input. The motion was approved by voice vote.

Chairman McCarty appointed himself and Commissioner Coglianese to the new Ad hoc Committee.

11. Proposed Budget and Work Plan For FY 03-04

Ms. Aramburu stated that DPC funding for Fiscal Years 2003-2004 is approximately \$300,000 from two special funds. She suggested the Commission preliminarily adopt the budget and work plan, subject to reflect the depth and scope of work the Commission is performing.

Commissioner Cabaldon stated that there seem to be questions on the boundary lines of the Scondary Zone within certain cities in the Delta. He stated the Commission needs to address the issue of boundary lines within the Delta and the issue should be reflected in the work plan.

Chairman McCarty commented that the Commission needs to put more effort into the work plan and annual report, and communicate what they are thinking and make sure the efforts are reflected in the documents.

Chairman McCarty opened the public hearing; there were no public comments. The public hearing was closed.

Excerpt from July 2003 minutes (con't)

Commissioner Shaffer stated the Department of Food and Agriculture is using the Delta Protection Commission Agriculture Committee to try to develop a Conservation Reserve Enhancement Program for the Delta and he felt it should be included in the work plan.

Chairman McCarty asked that a definition for the different farming categories be added to the work plan, so that everyone has the same definitions when talking about various types of farming being done in the Delta.

Commissioner Kelly asked that the South Delta Improvements Program be listed on the work plan.

Commissioner Wilson moved and Commissioner Calone seconded a motion to adopt the proposed budget and work plan for the Commission and authorize the Executive Director to make modifications to the text of the work plan. The motion was approved by voice vote.

Excerpt from September 2003 minutes...

7b. Update on the State Budget, Funding for the Delta Protection Commission and Next Steps Regarding the Commission's Future

Ms Aramburu noted that there are new requirements linked to the Commission's budget; these are included in the Commission's budget and work plan memos. In addition to the meeting Chairman McCarty and staff had with Resources Secretary Mary Nichols, they also met with Dave Widdell of the Resources Agency, who has been assigned to this project, and she has prepared a background "white paper" for him to use in the formulation of the report. She added that Senator Machado has scheduled a hearing on the Commission for October 28, 2003, from 10 a.m. to 1 p.m. at Jean Harvie. She said this hearing would provide a unique opportunity for the public to speak directly to the Legislature, rather than having the Commission gather public input and forward those comments to the Legislature.

Commissioner Coglianese expressed concern over the short timeline between Senator Machado's hearing and the report due date. She said she agreed with Commissioner Cabaldon's suggestion at the July meeting that the DPC be proactive in beginning to formulate scenarios for its future, and said that this exercise should be completed in advance of the hearing.

Chairman McCarty agreed that at the July meeting, the Commission expressed a desire to be proactive in developing scenarios for its future, recognizing the changes that have come about over the last ten years, and to engage all interested stakeholders in the exercise. However, it now appears that the report will be prepared by the Resources Agency with assistance from the Commission, rather than prepared by the Commission. He said it is DPC's job to make sure Mr. Widdell, who is charged with preparation of the report, understands what the DPC is, its responsibilities and accomplishments to date, and what is needed for the future. He said he was pleased that Senator Machado scheduled the Senate Select Committee hearing, and urged the Commission to keep an open mind when considering future scenarios and continue to recognize the importance of this issue for the Delta. He asked Commissioners to submit any ideas about the future direction, composition, and possible expansion or shrinking of the purview of the Commission.

Commissioner McGowan asked how the Commission will formulate its presentation at the hearing, and if staff will be prepared to offer a position. Chairman McCarty said the Commission should make a presentation at the hearing to educate the Legislators and public about its current role. Ms Aramburu said the Commission did not adopt any position at the last meeting, and agreed that the presentation at the hearing would be informational, a picture of the Delta from the Commission's viewpoint.

Commissioner McGowan suggested that the Commission take an advocacy position and make a case for it at the hearing. Commissioner Coglianese agreed, and said the direction from the Resources Agency (in the preparation of the report) puts the Commission in a passive position, which reinforces the sentiments of people who are saying that the Commission "doesn't do anything". She urged the Commission to adopt a position to present at Senator Machado's hearing.

Excerpt from September 2003 minutes (con't)

Commissioner McGowan asked what Chairman McCarty would say at the hearing if he were to be asked what the Commission should do, and look like, in the future. Chairman McCarty answered that he is a strong advocate for the Commission, and is proud of what it has accomplished. He said the Commission has made a difference in the Delta, and has done a good job of “drawing a line in the peat”; if the Commission were eliminated, there would likely be many proposals to develop the agricultural lands in the Delta Primary Zone. He said the Commission is charged with the protection of a unique resource, and in view of the pressures being put on the Delta by urban development in the Secondary Zone, by the State and federal water projects, and by the continuing conflicts between the Delta’s various land uses, there is a great need today, and will be an even greater need in the future, for a body like the Commission to represent the region and its unique resources.

Chairman McCarty said that there has been some criticism that one of the “three legs of the stool” is represented more than the others, but noted that there will never be perfect balance among these because the issues migrate. He suggested other points of view may be helpful, but would need to be carefully considered.

Commissioner Cabaldon suggested it would benefit the Commission to address the criticisms that have been raised. For example, the make-up of the Commission and balance should be discussed to determine if there are gaps or imbalance, and the issue of whether the Commission should have a different role in the Secondary Zone should be addressed. He cautioned that the Senate Select Committee could rewrite the Commission’s legislation without the Commission’s input if it is not adequately prepared for this hearing. If this occurs, the Commission will cease to exist, or be modified to address issues raised by others. He said the Commission needs to understand why these criticisms are being raised, and know how to address them.

Commissioner McGowan said he has heard two criticisms: first, that the Commission does not have the right players at the table, and second, that the Commission doesn’t do enough. He suggested that the Commission come up with some alternatives to address both of these issues, rather than argue that the criticisms are invalid. He said the Commission needs to determine what it can do better than any other entity; for example, it is the only body that wholly represents, and is only concerned with the welfare of, the Delta.

Commissioner Coglianese said numerous planning activities – including CALFED and the Water Plan update – champion regional planning, and that there needs to be a place where Delta residents can participate in and respond to these activities; so far, this is an important role that the Commission has filled. She said that the Commission could heighten its activities in educating local governments about the issues associated with development in and around the Delta, and that if local governments were more involved, the interest and support for the Commission could be heightened. She has heard suggestions that the Commission be funded by the Counties, but she thinks regional planning would be very difficult to fund, and said the fiscal support should continue to come from the State.

Excerpt from September 2003 minutes (con't)

Commissioner McGowan said that he is not opposed to some local fiscal support, but if local governments were expected to fund the entire program, it would likely disappear.

Commissioner van Loben Sels said a lot of the benefits of the Commission to the Delta area are intangible, and that the Commission can provide a perspective that helps the State maximize the use of its dollars in the long run (for example, by requesting that State agencies acquiring agricultural lands for habitat restoration purposes maintain agricultural use to yield multiple benefits).

Commissioner Cabaldon said he is most interested in how Chairman McCarty would respond to questions after the presentation, such as how the Commission guarantees adequate representation of issues and interests related to habitat. He noted CALFED staff's disappointment that the Commission is not involved in the River Islands project in the Secondary Zone. He said the Commission needs to think about how development in the Secondary Zone is impacting the Primary Zone, and what it should be doing to address that development. He said the Commission's appeal authority was a "cutting edge" idea at the time, but there are planning processes going on in the Bay Area and Sacramento region (Blueprint Process), and the Commission has not been involved in either. He noted the growth issue is critical, the Commission needs to be involved in a more formal way, and it needs to take positions on these questions.

Commissioner Shaffer said the exercise of formulating future scenarios could be similar to a CEQA document or Budget Change Proposal, including a "no action" alternative, and evaluations on the expansion or contraction of the Commission's role.

Ms Aramburu suggested the Commission might want to meet on October 23 to further discuss scenarios and adopt positions in preparation for the hearing. She said the Commission would need to discuss changes in agriculture, wildlife habitat, and recreation over the last ten years; the "white paper" she prepared; and some scenarios.

Chairman McCarty agreed that an October meeting would be needed, and asked the Commissioners to think about:

- Are the right players at the table, and if not, who else should be included?
- What can the Commission do better than any other entity, today and in the future?
- Where are the Commission's activities duplicative of those of other entities?

Commissioner Coglianese added that a discussion of the Commission's role in the Secondary Zone should occur; Commissioner Sanders noted this could fall under the issue of future scenarios for the Commission.

Commissioner Cabaldon suggested that Commissioners formulate ideas of what the Commission's legislation would like if it were to be written from scratch today, and that a subcommittee of the Commission vet ideas prior to the October Commission meeting.

Excerpt from September 2003 minutes (con't)

Chairman McCarty directed staff to circulate a draft framework of this discussion to Commissioners for individual response; this would be considered by the subcommittee, and then by the full Commission in October.

Mr. Siegel advised that communications between Commissioners outside of a publicly noticed meeting might be inappropriate. He said Commissioners could forward comments and suggestions to staff to be discussed at the subcommittee meeting, as long as all comments and suggestions were available to and shared with the public.

Chairman McCarty opened the meeting for public comments.

Craig Reynolds, staff to Assemblymember Lois Wolk, said he believed Assemblymember Wolk would have been concerned if the Commission had not chosen to be proactive about the discussion of future scenarios. He asked how the Commission would communicate its position to the Resources Agency and the rest of the Legislature beyond the Senate Select hearing, and suggested communication with other relevant Legislative Committees.

Chairman McCarty answered that the Senate Select Committee hearing parallels the process of developing information for the Secretary for Resources to include in the report to the Legislative Budget Committee. The Commission will meet on October 23 to prepare to respond to the questions raised at the Senate hearing; the outcome of the meeting and the hearing would become part of the "white paper" being presented to the Resources Agency.

Chairman McCarty closed the public hearing.

Commissioner McGowan suggested the Commission come out of its October meeting with a position to carry forward; Commissioner Coglianese suggested the Commission consider a range of options at the October meeting and then await input from the hearing.

Excerpt from October 2003 minutes...

8. Discussion of Future Options for the Delta Protection Commission and Possible Adoption of a Position on Future Options to Submit to Secretary of Resources and the Legislature

Chairman McCarty convened the public hearing. He announced that all issues would be open for discussion, and he was looking for a range of discussion—including criticism—if the Commission has come up short, not done its job, or had a weakness in any area. He suggested topics for discussion: (1) Commission to continue as it has over the last ten years; (2) work on the outlines, actions, plans the Commission has generated; (3) change or make modifications to the make-up of the Commission; and (4) the range and/or scope of areas the Commission should be further/less involved with. He also asked that everyone focus on the relationship of the Delta Primary Zone to the Secondary Zone; the urban encroachment occurring in the Secondary Zone and the pressure it may exert on the Primary Zone in the future; and mechanisms for addressing those pressures.

Ms Aramburu provided the Commission with a background memo on the history and accomplishments of the Commission and a summary of the Committee meeting discussion.

Chairman McCarty circulated a memo from Commissioner Curtis that was submitted for the Committee meeting and thanked him for those comments

Commissioner van Loben Sels suggested that the list of accomplishments should include accomplishments such as the Commission's work to preclude the City of Sacramento's and the City of Elk Grove's attempts to expand their Spheres of Influence into the Primary Zone. He said these are examples of the Commission's accomplishments in protecting a portion of the Delta from urbanization.

Commissioner van Loben Sels added that one area of change is in land ownership by nonprofits and state and federal agencies from 1993 to the present. In 1993 the ownership was 7 percent and currently 17 percent of the Delta was controlled by non-profits and state and federal agencies. He said if we ask if the Commission represents the cross-section of landowners in the Delta given the changes in land ownership over the past few years, it does not reflect that change. He stated that since land ownership has changed, then representation could change.

Commission Shaffer suggested that the Department of Fish and Game's (DFG) response to the Commission's review and comments on acquisitions in the Yolo Bypass should be added to the list of Commission accomplishments as it has set a precedent for open planning and decision-making.

Chairman McCarty asked for Commission comment on the Legislative Budget Committee question: "Has the Commission been deemed redundant by the California Bay Delta Authority (CBDA) or any other entity?"

John Banks, fisherman, said that the Commission has done a good job at interacting with other government entities; however, it should do more outreach to get the "pulse" of the people who are involved in Delta issues on a daily basis. He said outreach would give the Commission an idea of what its main concerns should be.

Excerpt from October 2003 minutes (con't)

Commissioner Curtis said the Legislature is asking what will the Commission contribute to the future of the Delta. He said there are a lot of actions described in the original legislation that could be expanded. He said for example DFG will be taking over the CALFED ecosystem restoration program and the Commission could help provide input from diverse groups. He said the Commission has been instrumental in providing a forum for local input.

Steve Mello, former Commissioner, stated that much of the information being sought at the public hearing has been discussed in Commission meetings in the past, and is being implemented by State and Federal agencies working in the Delta through CALFED. Mr. Mello suggested researching the input Commission has already provided. He also said that background reports acknowledged that agencies would perform habitat restoration without negative socio-economic impacts in the Delta, and the Commission targeted low lands of districts and found out there is quite a bit of work that can be done on these marginal lands.

Mr. Mello said he originally opposed the creation of the Commission, but since its creation could not be stopped, he sought local representation and some key changes such as ability to continue to extract natural gas. He commented that the Commission has brought together State agencies and other Delta interests. He said the Commission should continue to serve as a clearinghouse for information and concerns. He said he thinks the Commission will be hearing more appeals in the future. He said he sees the Commission "morphing" into an agency that coordinates the activities of the State and federal resource agencies acting in the Delta carrying out the CALFED program. He said the agencies should comply with CEQA and NEPA prior to expenditure of public funds in the Primary Zone. He supports continuation of the Commission, as does the Central Valley Flood Control Agency and the North Delta Water Agency.

Chairman McCarty commented that the Commission is unique in that it has developed a level of trust and responsibility with Delta citizens, and those attributes would be lost if the Commission were moved into another statewide agency. He felt there was no need for the Commission to be a "policing" force to get the job done.

Commissioner van Loben Sels said the Commission should reinforce the language in its Plan concerning conservation easements; and since the Commission serves at the will of the Legislature, the Legislature should support implementation of a permanent easement program. He said the role of the Commission in the future should include agricultural land preservation for that portion of the Delta that is the most productive.

Jeff Hart, Hart Restoration, said he is dedicated to stopping erosion and protecting the levee through habitat restoration. He said the worst possible scenario is flooding of a series of islands and the possible impact to the economic health of the region. He made several suggestions including:

- Support partnerships and coalitions to implement regional goals and activities.
- Appoint task forces to bring together different view of specific issues.
- Encourage local Delta residents to apply for funding to implement CALFED goals.
- Work with local landowners to address issues, for example through the creation of new groups and conservancies.

Excerpt from October 2003 minutes (con't)

- Possibly add new representation to the Commission representing new stakeholders in the region.

He spoke to the commonality of the larger Delta community and supported moving forward on the many issues in the Delta.

Chairman McCarty asked the Commission to reflect on the relevance of the line between the Primary and Secondary Zones. He said the Committee meeting noted that the Secondary Zone has continued to be developed over the last ten years, and many new developments are now up against the boundary of the Primary Zone. He said there is still an opportunity to acquire easements in the Secondary Zone in order to provide long-term protection of the Primary Zone.

Commissioner Cabaldon said the Commission should examine the boundary of the Secondary Zone, for example the City of Rio Vista is not in the Legal Delta. He noted that West Sacramento is in the Secondary Zone, but much of the City of Sacramento is not. He said the Commission could provide advice to local governments about projects in the Secondary Zone. He said that the Commission would have to delineate between the urban and the undeveloped areas in the Secondary Zone.

Commissioner Wilson asked why there is a Secondary Zone; Chairman McCarty explained that during the discussions about the legislation, the two zones were adopted.

Commissioner Cabaldon said the Secondary Zone could provide a buffer area, but currently includes undeveloped and developed areas. He said there could be three zones: a protected zone, a buffer zone, and a developed zone.

Commissioner van Loben Sels suggested a perimeter "zone" protected by easements that would serve to protect the core area of agriculture and habitat.

Mr. Mello added that the creation of the Secondary Zone was a political trade-off that was negotiated to get the legislation passed. He understands that the Commission has no real authority over development in the Secondary Zone.

Excerpt from October 2003 minutes (con't)

Commissioner Cabaldon suggested the Commission could retain its authority over the Primary Zone and have limited powers to determine if projects in the Secondary Zone would have a negative impact on Delta resources.

Chairman McCarty said staff does comment on projects in the Secondary Zone, but those letters are not sent to the Commission.

Commissioner Forney expressed concern about the Commission becoming more involved in land use decisions in the Secondary Zone, and suggested using advisory boards instead.

Chairman McCarty introduced Assemblymember Lois Wolk, 8th District. She applauded the Commission on its proactive stance in evaluating its past, present and future. She stated the Delta's needs are more urgent now than they were in 1992 and she noted the Commission was successful in completing the regional planning document that was incorporated into the five Delta counties' General Plans. She explained that although the Commission is charged with enforcing the Plan through its appellate authority, it has only had exercise that authority once in the past ten years. She said that proves the effectiveness of the plan and willingness of local communities to abide by it.

However, that success has left time and effort to focus on monitoring CALFED, and while some CALFED actions have posed a threat to the Delta, other threats have not received enough attention from the Commission. She cited the City of Stockton's Preliminary Planning Map proposing annexation of four Delta islands in the Primary Zone, and noted that the City has approved tracts of housing and shopping centers in the Secondary Zone. She also noted that it's only a matter of time before the cities begin evaluating development in the Primary Zone.

She posed the following questions: (1) would the local communities value Commission enough to ensure the voices remain heard, and pay for its continuation; (2) does the currently adopted Plan protect the agricultural, recreational and environmental values of the Delta; and (3) if the local communities do not abide by the Plan, what could/would the Commission do about it? Moreover, she said the Commission should consider moving from planning and reporting duties to giving itself more authority and tools to protect the Delta.

Assemblymember Wolk offered to work with the Commission to develop reforms to ensure the Delta is protected from development pressures in an effort to strengthen the mission of the Commission. She stated the Commission should have the tools to protect the Primary Zone, and sees its value in providing a local forum from permitting in the Primary Zone and appellate authority in the Secondary Zone. She said she did not believe everyone that should be heard had a seat on the Commission, and suggested that other landowners in the Delta could be incorporated into the discussions to provide better balance.

She further suggested the Commission identify and look at the Primary/Secondary Zone issue (such as why Rio Vista is not in the Legal Delta).

Excerpt from October 2003 minutes (con't)

Finally, the Commission should develop a permanent conservation strategy for the Primary Zone (securing and holding easements) because the Commission cannot protect the Primary Zone unless this is done. She noted that in 1992 there were only a few easements, and noted that the City of Davis has a mitigation ordinance that requires one to one protection of agricultural land when agricultural land is developed. She reiterated her offer to help the Commission.

Commissioner Kelly said she like the idea of the Commission getting more involved in issues and projects, and noted a real need to protect the Delta. She asked what is the appropriate level of power for a new and improved Commission?

Commissioner Shaffer suggested that the Commission become a “responsible agency” and play a more active role under CEQA, rather than act as a commenting agency. He said that he agreed with Commissioner Forney's earlier comments on local development's role as it relates to the Primary Zone, and he reinforced the idea that the Commission has the authority to implement getting conservation easements that could be used to create a ring around the Delta to protect the Primary Zone resources. He said the Commission should review the South Delta project and the Napa agreement.

Commissioner Wilson asked what the Commission could do if the City of Stockton incorporated a Delta island into the City limits. Ms. Sproul said that cities and counties have an obligation to keep their Plans consistent with the Commission's Plan, therefore if a city proposes something inconsistent with the Plan, the Commission would be in a position to advise them as such. If the action is pursued, then an aggrieved party could appeal the action to the Commission; Commission has the authority to overturn the action. Finally, the Commission could file a suit against the City.

Vice Chair Ferguson said the Commission should be the “gatekeeper” of proposed projects to either monitor or slow them down. He said in the next ten years, pressure will increase on agriculture and the environment.

Chairman McCarty noted the Stewart Tract (River Islands project site) was part of the political trade-off of the original legislation, and was included in the Secondary Zone before the Commission was created. It was understood that land uses in Secondary Zone would change.

Commissioner Curtis said he agrees that the Commission's job is to protect the Delta and should use whatever tools necessary to do so, such as commenting on projects in the Secondary Zone. He said if the Commission is ignoring projects in the Secondary Zone that would have a negative impact on the Primary Zone, then it may be derelict in its duties.

Commissioner McCarty agreed that the pressure for urban development has escalated in the last five years. He said there is and will be impact from "spillage" associated with development. He said that once the Secondary Zone disappears, that "spillage" will have a detrimental effect on the Primary Zone. He felt that if the Commission encourages conservation easements and acquisitions by non-governmental agencies and tries to preserve a buffer around the Primary

Excerpt from October 2003 minutes (con't)

Zone, then the best and last opportunity is in the Secondary Zone, and the Commission should leverage every resource. He felt Commission was designed well in that it exercises its authority through the local agencies and State agencies, because those agencies have more "bite" than the Commission. He said he would continue to advocate for the Commission leveraging strength where it knows strength is, rather than replicating it.

Commissioner Curtis said he did not advocate taking over the role of city and county government in land use planning and land use management decisions; however, he suggested the Commission provide comments on projects in the Secondary Zone. He suggested the Commission determine where it wants to provide input and which resources should be acknowledged.

Chairman McCarty said there was no restriction on the Commission commenting on matters; however it was a matter of time, resources, effort and more importantly, knowledge. He said that many times the Commission does not know of a project until it is late in the process, so it must be notified of pending projects.

Mr. Harry Moore, resident of Stockton, testified that the Commission was the best disseminator of information on the Delta. He said most people do not realize how their water gets to them and how delicate water is. He reported that each year more water is leaving the Delta than is coming in. Furthermore, the water tables have been abused and he felt the Commission should have more authority to oversee the water tables. Mr. Moore provided the Commission with the publication "*Investment Guide for California Water Future*" by the Department of Water Resources.

Gary Adams, President, California Striped Bass Association (CSBA), West Delta Chapter, declared that other organizations are very interested in the quality of the Delta. He noted that the Department of Fish and Game is in "dire straights", and CSBA has provided \$650,000 from its striped bass stamp fund for additional overtime for game wardens and updated equipment so that they can enforce various activities in the Delta. Mr. Adams thanked the Commission, Mr. Mello and other organizations for providing him with recreational opportunities on farmlands; opportunities he is extending to young people and other citizens. Mr. Adams said the Commission is very important and he sees its pressures in the next ten years to be the protection of the water system in the Delta. He said his organization and others share Mr. Moore's concern about the water tables disappearing.

Commissioner Sanders noted that the Commission was originally proposed to have more authority, but the final legislation gave the Commission its more limited authority. He said there are things the members of the Commission could do now, such as when commenting on projects in the Delta, adding that, because of membership on the Commission, such comments are also made within the context of or reflect the concerns/policies of the Commission as well as those of the members' agency. He asked for input from Assemblymember Wolk as to what level of power the Legislature would support. He said if you see the Primary Zone as a castle, how do

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you defend it--by staying inside to defend the castle, or by going out of the castle and conscientiously defending the castle. He suggested moving out into the Secondary Zone in order to protect the Primary Zone.

Commissioner Cabaldon said the State partners on the Commission should not be sanctimonious on this issue because the resource management plan is not binding on State agencies in the Primary Zone. He asked if the State agencies on the Commission should also consider conforming to the Commission's Plan. He said the Commission must keep in mind that the elected representatives (county supervisors and city officials) on the Commission have been elected to make land use choices, not the Commissioners. He said the State has an interest in the Delta that goes beyond the local interest and that is why the State funds the Commission. He acknowledged that the Commission is currently under pressure, and noted that if there is any proposal for additional authority in the Secondary Zone, or any funding from the Secondary Zone, then the Commission should determine which areas of the Secondary Zone are relevant and important to the Commission's mission. He suggested the Commission stay out of areas where there are not Delta resources issues, such as downtown West Sacramento.

Regarding membership, Commissioner Cabaldon noted that surrounding cities are doing the majority of development in Secondary Zone, yet the cities are the least represented governmental group on the Commission with only three City reps. He added that in addition to conservation easement holders, those with responsibility for water quality, fishing, and recreation public interests, are also missing from the Commission and suggested it may be appropriate to have some public appointees from the Governor and the Legislature to provide expertise in these other areas.

Commissioner Cabaldon said if the Commission is to examine the core areas and the Secondary Zone, the Commission should be more involved in ABAG and SACOG regional planning programs. He suggested that the Commission play a more formal role in conservation easements in the Primary Zone—as a conservancy, or as a facilitator of nonprofits or other groups.

Jim Ball, Solano Land Trust, commented that non-governmental landowners in the Delta are interested in reaching out and working with the Commission. Mr. Ball said that the Commission should work with existing land trusts in the area instead of creating new ones. He maintained that the mission of the Commission and the Solano Land Trust are the same—preservation of agricultural, open space and education – and the two should work together.

Chairman McCarty opened the discussion of membership and funding.

Commissioner Shaffer described the discussion of the October 15, 2003 Committee meeting stating that the early discussions of membership resulted in geographic representatives, not representatives appointed by interest or expertise.

Commissioner van Loben Sels said the ownership of lands is different now than it was in 1993 and there is a different political environment today. He recalled that after the Commission adopted its Plan, Mr. Mello had called a meeting of Delta stakeholders and there was support for

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continuing the Commission; an acknowledgement that the Commission was needed. He said membership on the Commission could change to reflect the change in land ownership.

Commissioner Cabaldon said that the Commission is currently appointed in a way that emphasizes the interests of agriculture, flood control, and protection of the Islands, not a sub-region as a whole. He suggested public members additional interests would broaden the Commission.

Commissioner Wilson said the original membership ensured that the local residents and agricultural interests had a seat at the table. He said it would be politically palatable to add some new seats, but suggested that any new members also be Delta landowners.

Commissioner van Loben Sels said that since non-governmental agencies now own Delta islands, their problems are common problems—i.e., maintaining levees.

Chairman McCarty agreed that non-governmental organizations and government agencies that own land in the Delta must protect the levees. Therefore, they are interested in flood control and land use—whether it is agriculture or habitat. Chairman McCarty said that Reclamation District members on the Commission are the only ones that are elected to serve on the Commission. He said he is cognizant about representing all landowners in his area including duck clubs, marinas, yacht clubs and others. He said he is concerned about providing public access safely. He noted that there are distinct issues and economies in the different sub-regions of the Delta, and he said there is now better understanding of those issues now that he has sits on the Commission with representatives of other sub-regions. He agreed that the membership could be broadened, but he felt new members should not have a single-issue focus.

Mr. Mello said that if the Commission were to seek agriculture and wildlife conservation easement funds, the grants would not fund staff, and the current Commission staffing levels would make it difficult for the Commission to have, hold, and monitor conservation easements. He said it would be up to the Legislature to enable the Commission to broaden its scope to address these duties and to ensure the Commission has adequate resources to obtain and monitor easements.

Commissioner Curtis suggested a subcommittee to work with Assemblymember Wolk on her ideas for the Commission.

Chairman McCarty stated that he expected no specific product from the meeting. He said there is a two-member Committee in place (McCarty and Coglianese). He said the effort of the October 15, 2003 meeting and tonight's meeting was to hear thoughts from the Commission, the Legislature, and the public. He also said that the lack of resources has made the Commission rely on others for implementation, and those groups have flourished because Commission does not compete with them. He suggested the Commission should support the dialog. Chairman McCarty said a move toward a conservation easement program would be the best and last hope of preserving the Primary Zone. He suggested looking at the possible use of mitigation fees for

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development in the Secondary Zone to acquire easements in the Secondary Zone. He said such fees could possibly provide a piece of the funding the Commission needs to survive and continue to enhance the Delta.

Mr. Banks emphasized that water is the one element that binds all the Delta interests together and expressed concern that additional water may be exported from the Delta. He noted that water exported from the Delta is being resold to others.

Commissioner Cabaldon stated that a proposal to use mitigation fees from the Secondary Zone to support the Commission would be inappropriate, although a fee on water transfers out of the Delta could be an appropriate funding mechanism. He said the issue of property ownership as a key to membership has been discussed, but there has not been a discussion of local assessments because the Commission is State agency protecting larger than local interests in Delta resources.

Commissioner van Loben Sels asked if the Commission could identify the Delta as a national treasure and obtain funding sources. He noted local sources can't fund that work and assessment would fund that work.

Mr. Mello said there is a lot of money being spent by State and federal agencies on Delta projects; however, it is a matter of directing that cash in the correct manner. He said there are State and federal grant dollars, and foundation grants, but it is a matter of having the appropriate staff to compete for those monies.

Assemblymember Wolk said there are ways of financing State and non State interests of protecting the Delta. She said she would contact Senator Machado to jointly develop concepts and agreed there may be funds available for the Commission to carry out its mission, such as federal flood dollars.

Commissioner Nottoli suggested evaluating some type of water transfer fee on water flowing through the Delta, such as one penny per acre-foot.

Commissioner Shaffer noted there are several USDA grant programs that would provide funding for the Delta, including RC&D and Conservation Priority Area. He said there are a number of opportunities that exist to attract federal dollars; there are significant opportunities within these programs to meet the multiple objects Commission has in terms of creating a buffer, protecting the Primary Zone, and meeting water quality and habitat goals.

Commissioner Cabaldon said the Commission has discussed these issues several times and suggested the Commission should provide some general comments to the Legislature that the Commission is willing to explore a more direct role in conservation easements, willing to look at the Secondary Zone boundaries, to play a strengthened or tiered role in land use to deal with urbanization, to look at a broadened membership, to explore other sources of funds such as a water transfer fee or federal funding. He suggested giving the Committee direction and allow the Committee to continue to work with the Legislature. Chairman McCarty asked if that was a motion; Commissioner Cabaldon agreed; Commissioner Wilson seconded the motion.

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Chairman McCarty asked that the key points from this discussion be added to the memo from the Committee meeting and he asked that the Commission be open to hearing from the speakers at the Senate hearing on November 12th.

Commissioner van Loben Sels asked if the memo could be circulated to the Commission; Ms. Aramburu said she would check with counsel.

Commissioner Shaffer spoke in favor of the motion.

The motion was approved by a voice vote.

Excerpt from November 2003 minutes

11. Briefing on the Senate Hearing on the Delta Protection Commission

Chairman McCarty briefed the Commission on the November 12, 2003 meeting of the Senate Select Committee on Delta Resources and Development, regarding the future of the Delta Protection Commission.

Chairman McCarty said that Senator Michael Machado suggested the Commission submit its ideas about its future, including ideas on funding, membership, protection of the Primary Zone, and issues associated with the Secondary Zone. He said that he and Commissioner Coglianese met to review the outcomes of the Senate Hearing and agreed on the following issues: (1) there is substantial support for the Commission; (2) the Commission has done a good job with the resources it has in meeting its mission; (3) the Commission has not been aggressive enough and should be proactive, particularly in preserving the primary zone; (4) the Commission's "toolbox" is not large enough to implement its current mission; (5) development in the Secondary Zone is a threat to the Primary Zone; (6) the Commission should develop more information on the impacts to the resources in the primary zone; (7) the Commission should continue to develop ways to protect the Primary Zone with the "least regulation needed"; and (8) the Commission should expand its outreach to Delta stakeholders, including but not limited to holding a State of the Delta Conference and/or developing an Index of Indicators on Delta health. Chairman McCarty asked for comments from the Commission to formulate specific and refined recommendations to adopt at the January meeting to give to Senator Machado and Assemblymember Lois Wolk.

Commissioner Calone stated that one of the problems the Commission has is that it learns about projects well after fact and he felt that any project in the Primary Zone should be brought before the Commission before any action is taken. He said that to be effective the Commission must be in the position to add its comments during and not after the planning stage—especially if the project involves the buying and selling of property where the buyer changes the historical use of the property.

Chairman McCarty stated that he felt Patrick Wright's comments at the hearing were appropriate. Mr. Wright was critical of the Commission for not being responsive to jurisdictional needs. Chairman McCarty further stated that in some cases, the Commission frustrates progress rather than participates in the programs. He said that to protect, preserve, and enhance the Delta, the Commission should refine its Resource Management Plan so that it reflects specific actions, identified needs, tasks completed, and goals to be met.

Commissioner Beltran asked what the process was for notification of properties up for sale in the Primary and Secondary Zones. He said he felt that once the Commission was noticed then it could track the project properly. Ms. Aramburu stated that currently there is no process for public notification of properties for sale, because many of the negotiations between the selling/buying entities are private transactions at the request of the seller. Additionally, because the sellers are private landowners, agencies must respect the interest of the private property owner. She said the Commission has been very vigilant in pursuing the matter of "knowing first" of any projects that would affect land use in the Delta. She also said the process is changing because agencies, to the best of their abilities, are trying to work with the Commission by notifying it of projects taking place in the Primary and Secondary Zones.

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Commissioner Ferguson said that the Resource Management Plan should have a multi-pronged approach; first by notifying people of projects the Commission is looking at in the Delta, and second, by having Commission sign-off on any buying/selling negotiations before escrow closes.

Commissioner Curtis said he agreed with Chairman McCarty's comments that the Commission should refine its Resource Management Plan and that he was not opposed to the Legislature giving the Commission more teeth, but the Commission should recognize the progress it has made. He further stated that DPC comments on acquisitions have delineated what the Commission felt was appropriate to do at the time. Commissioner Curtis said the Commission's recommendation to have an open process for development of Management Plans on public property and to have land maintained in its current land use until the process is completed should be adopted in its Resources Management Plan as a basis for land acquisition in the Delta.

Commissioner Shaffer suggested that the Commission be proactive but also push the envelope further in directing an open planning process. He said the Commission should work with the CBDA and its implementing agencies in developing an MOU that would spell out a process to address and reduce conflict between the Record of Decision, Delta Implementation Plan and Resource Management Plan.

Chairman McCarty said the Plan should be specific in the areas of wildlife habitat, agriculture, and recreation and, be flexible enough to provide for the growth and pressures the Delta will face in the future. He went on to say that the Commission's Plan allows for alternatives; however those alternatives should be "out front" by five to ten years in order for the Commission to be pro-active. Chairman McCarty said he felt that the Commission should refer to the Delta as the "Legal Delta" that has zones within it, so as not to be confused by arbitrary lines drawn in and around the Delta. He said there were too many lines describing the Delta and the Commission should clarify the boundaries.

Commissioner Shaffer suggested that the Commission develop Best Management Practices in its Resource Management Plan to improve its compatibility with the environment, and farm friendly wildlife. He reminded the Commission of Commissioner Forney's caution against moving the line in the peat. He said the line could be used as a tool and the Commission should not do anything to weaken this tool but use it in a more creative/substantive way to address issues in the Secondary Zone that will impact the Primary Zone.

Ms. Aramburu suggested actions the Commission could take without Legislation:

- Conduct a Delta Agricultural Meeting/Summit with land trusts to discuss what is being done on the fringe of the Delta that is protecting the Primary Zone, to look for tools and mitigation strategies to incorporate into the Delta buffer;
- Provide outreach and get involvement from other groups and establish a Delta Alliance List of the non-profits on various topic areas;
- Conduct a joint meeting with the Reclamation Board to talk about flood control and levee issues that affect the entire legal Delta;
- Take an oppose position at a public meeting about a Sphere of Influence coming into the Primary Zone;

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- Establish an MOU between State Agencies and the Commission; and
- Talk about what is happening on the edge of the Primary Zone.

Ms. Aramburu said the Commission has had a slow start on its Agriculture Study with the American Farmland Trust because of staff downsizing and leaves of absence. She said she met with staff from Washington in early December to either get the study going or go in another direction. Additionally, funding from the Department of Boating and Waterways for the Recreation Study is being held up because Commission staff is being asked to provide additional information.

Chairman McCarty convened the public hearing.

Jeff Hart, Hart Restoration and Nurseries thanked the Commission for the opportunity to educate himself on Delta Issues. Mr. Hart said there are a lot of people who live in and love the Delta but found it disheartening that more people are not involved in Commission meetings. He said he and Ms. Aramburu discussed having an alliance to coordinate and get people involved in Delta issues and suggested the Commission secure funding from CALFED to help organize an event or series of events to involve more public participation within the Delta. Ms. Aramburu added that Mr. Ron Ott, CALFED has agreed to help put together any outreach forums.

Chairman McCarty closed the public hearing.